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**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

KERSTIN KOHN
a.k.a. Kerstin Negoesco
a.k.a. Kerstin Biagini
6309 Newhaven Lane
Vallejo, CA 94591
And
519 Galway Ct
Vacaville, CA 95688-9223

Registered Nurse License No. 461959

RESPONDENT

Case No. 2011-808

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about March 24, 2011, Complainant Louise R. Bailey, M.Ed.,RN, in her official capacity as the Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs, filed Accusation No. 2011-808 against Kerstin Kohn (Respondent) before the Board of Registered Nursing. (Accusation attached as Exhibit A.)

2. On or about March 31, 1991, the Board of Registered Nursing (Board) issued Registered Nurse License No. 461959 to Respondent. The Registered Nurse License was in full force and effect at all times relevant to the charges brought herein and expired on June 30, 2010 and has not been renewed.

3. On or about March 24, 2011, Respondent was served by Certified and First Class Mail copies of the Accusation No. 2011-808, Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record which, pursuant to Business and Professions Code section 136 and Title 16, California Code of Regulation, section 1409.1, is required to be reported and maintained with the Board, which was and is:

6309 Newhaven Lane

1 Vallejo, CA 94591.

2 4. Service of the Accusation was effective as a matter of law under the provisions of
3 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
4 124.

5 5. On or about March 30, 2011, the aforementioned documents were returned by the
6 U.S. Postal Service with a forwarding address of 519 Galway Ct, Vacaville, CA 95688-923.

7 On or about April 5, 2011, Kami Pratab, an employee of the Board of Registered Nursing,
8 re-served the Accusation packet to the forwarding address on the returned envelopes. USPS -
9 Track and confirm indicates that on May 3, 2011, the Certified mail was returned to the sender
10 marked "Unclaimed". Respondent failed to maintain an updated address with the Board and the
11 Board has made attempts to serve the Respondent at the address on file and the address on the
12 returned mail.

13 6. Business and Professions Code section 2764 states:

14 The lapsing or suspension of a license by operation of law or by order or decision of
15 the board or a court of law, or the voluntary surrender of a license by a licensee shall not deprive
16 the board of jurisdiction to proceed with an investigation of or action or disciplinary proceeding
17 against such license, or to render a decision suspending or revoking such license.

18 7. Government Code section 11506 states, in pertinent part:

19 (c) The respondent shall be entitled to a hearing on the merits if the respondent files a
20 notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation
21 not expressly admitted. Failure to file a notice of defense shall constitute a waiver of respondent's
22 right to a hearing, but the agency in its discretion may nevertheless grant a hearing.

23 8. Respondent failed to file a Notice of Defense within 15 days after service upon her of
24 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 2011-
25 808.

26 9. California Government Code section 11520 states, in pertinent part:

27 //

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1 (a) If the respondent either fails to file a notice of defense or to appear at the hearing, the
2 agency may take action based upon the respondent's express admissions or upon other evidence
3 and affidavits may be used as evidence without any notice to respondent.

4 10. Pursuant to its authority under Government Code section 11520, the Board after
5 having reviewed the proof of service dated March 24, 2011 and April 5, 2011, signed by Kami
6 Pratab, and the returned envelopes finds Respondent is in default. The Board will take action
7 without further hearing and, based on Accusation No. 2011-808 and the documents contained in
8 Default Decision Investigatory Evidence Packet in this matter which includes:

9 Exhibit 1: Pleadings offered for jurisdictional purposes; Accusation No. 2011-808,
10 Statement to Respondent, Notice of Defense (two blank copies), Request
11 for Discovery and Discovery Statutes (Government Code sections
12 11507.5, 11507.6 and 11507.7), proof of service; and if applicable, mail
13 receipt or copy of returned mail envelopes;

14 Exhibit 2: License History Certification for Kerstin Kohn, Registered Nurse License
15 No. 461959;

16 Exhibit 3: Affidavit of Regina Rickard;

17 Exhibit 4: Certification of costs by Board for investigation and enforcement in Case
18 No. 2011-808 and

19 Exhibit 5: Declaration of costs by Office of the Attorney General for prosecution of
20 Case No. 2011-808

21 The Board finds that the charges and allegations in Accusation No. 2011-808 are separately and
22 severally true and correct by clear and convincing evidence.

23 11. Taking official notice of Certification of Board Costs and the Declaration of Costs by
24 the Office of the Attorney General contained in the Default Decision Investigatory Evidence
25 Packet, pursuant to the Business and Professions Code section 125.3, it is hereby determined that
26 the reasonable costs for Investigation and Enforcement in connection with the Accusation are
27 \$9,072.00 as of May 13, 2011.

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DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Kerstin Kohn has subjected her following license(s) to discipline:

a. Registered Nurse License No. 461959

2. The agency has jurisdiction to adjudicate this case by default.

3. The Board of Registered Nursing is authorized to revoke Respondent's license(s) based upon the following violations alleged in the Accusation, which are supported by the evidence contained in the Default Decision Investigatory Evidence Packet in this case.

a. Violation of Business and Professions Code section 2761(a) - Unprofessional Conduct.

b. Violation of Business and Professions Code section 2761(f) - Conviction substantially related to the qualifications, functions and duties of a registered nurse.

c. Violation of Business and Professions Code section 2762(a) - Obtaining or possessing controlled substances without a prescription.

d. Violation of Business and Professions Code section 2762(b) - Use of controlled substance or alcohol to an extent or in a manner dangerous or injurious to oneself and others.

e. Violation of Business and Professions Code section 2762(c) - Criminal conviction involving alcoholic beverages or controlled substances.

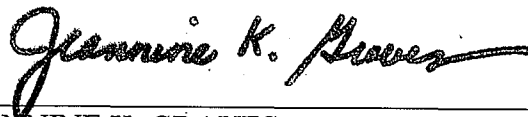
ORDER

IT IS SO ORDERED that Registered Nurse License No. 461959, heretofore issued to Respondent Kerstin Kohn, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

1 This Decision shall become effective on August 12, 2011.

2 It is so ORDERED July 12, 2011.

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5 JEANNINE K. GRAVES
6 President
7 Board of Registered Nursing
8 Department of Consumer Affairs
9

10 Attachment:

11 Exhibit A: Accusation No. 2011-808
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Exhibit A

Accusation Case No. 2011-808

1 KAMALA D. HARRIS
Attorney General of California
2 DIANN SOKOLOFF
Supervising Deputy Attorney General
3 SUSANA A. GONZALES
Deputy Attorney General
4 State Bar No. 253027
1515 Clay Street, 20th Floor
5 P.O. Box 70550
Oakland, CA 94612-0550
6 Telephone: (510) 622-2221
Facsimile: (510) 622-2270
7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2011-808

13 **KERSTIN KOHN, a.k.a. KERSTIN**
14 **NEGOESCO, a.k.a. KERSTIN BIAGINI**
6309 Newhaven Lane
Vallejo, CA 94591
Registered Nurse License No. 461959

ACCUSATION

15 Respondent.

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17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
21 Consumer Affairs.

22 2. On or about March 31, 1991, the Board of Registered Nursing issued Registered
23 Nurse License Number 461959 to Kerstin Kohn, also known as Kerstin Negoesco, also known as
24 Kerstin Biagini (Respondent). The Registered Nurse License expired on June 30, 2010, and has
25 not been renewed.
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1 8. Section 2762 of the Code states:

2 "In addition to other acts constituting unprofessional conduct within the meaning of this
3 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this
4 chapter to do any of the following:

5 "(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed
6 physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or
7 administer to another, any controlled substance as defined in Division 10 (commencing with
8 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as
9 defined in Section 4022.

10 "(b) Use any controlled substance as defined in Division 10 (commencing with Section
11 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in
12 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to
13 himself or herself, any other person, or the public or to the extent that such use impairs his or her
14 ability to conduct with safety to the public the practice authorized by his or her license.

15 "(c) Be convicted of a criminal offense involving the prescription, consumption, or self-
16 administration of any of the substances described in subdivisions (a) and (b) of this section, or the
17 possession of, or falsification of a record pertaining to, the substances described in subdivision (a)
18 of this section, in which event the record of the conviction is conclusive evidence thereof."

19 9. Section 490 of the Code provides, in pertinent part, that a board may suspend or
20 revoke a license on the ground that the licensee has been convicted of a crime substantially
21 related to the qualifications, functions, or duties of the business or profession for which the
22 license was issued.

23 10. Code section 4060 provides, in pertinent part:

24 "No person shall possess any controlled substance, except that furnished to a person upon
25 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
26 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-
27 midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, [or] a
28 physician assistant pursuant to Section 3502.1 . . ."

1 11. Section 11173, of the Health and Safety Code provides, in pertinent part that:

2 “(a) No person shall obtain or attempt to obtain controlled substances, or procure or attempt
3 to procure the administration of or prescription for controlled substances, (1) by fraud, deceit,
4 misrepresentation, or subterfuge; or (2) by concealment of a material fact.

5 “(b) No person shall make a false statement in any prescription, order, report, or record,
6 request by this division.”

7 12. Section 11350, subdivision (a)(2), of the Health and Safety Code, provides that is
8 unlawful for any person to possess any controlled substance classified as a Schedule II, IV, or V,
9 which is a narcotic drug, without the written prescription of a physician . . .”

10 13. Section 11368 of the Health and Safety Code provides that it is unlawful for any
11 person to forge or alter a prescription, or issue or utter an altered prescription, or issue or utter a
12 prescription bearing a forged or fictitious signature for any narcotic drug, or to obtain any
13 narcotic drug by any forged, fictitious, or altered prescription, or to have in their possession any
14 narcotic drug secured by a forged, fictitious, or altered prescription.

15 14. California Code of Regulations, title 16, section 1444, states:

16 “A conviction or act shall be considered to be substantially related to the qualifications,
17 functions or duties of a registered nurse if to a substantial degree it evidences the present or
18 potential unfitness of a registered nurse to practice in a manner consistent with the public health,
19 safety, or welfare.”

20 CONTROLLED SUBSTANCES/DANGEROUS DRUGS

21 15. Code section 4021 states:

22 “‘Controlled substance’ means any substance listed in Chapter 2 (commencing with Section
23 11053) of Division 10 of the Health and Safety Code.”

24 16. Code section 4022 provides:

25 “‘Dangerous drug’ or ‘dangerous device’ means any drug or device unsafe for self-use in
26 humans or animals, and includes the following:

27 “(a) Any drug that bears the legend: ‘Caution: federal law prohibits dispensing without
28 prescription,’ ‘Rx only’ or words of similar import.

“(b) Any device that bears the statement: ‘Caution: federal law restricts this device to sale by or on the order of a _____,’ ‘Rx only,’ or words of similar import: . . .

“(c) Any other drug or device that by federal or state law can be lawfully dispensed only on prescription or furnished pursuant to Section 4006.”

17. "Klonopin" (formerly known as Clonopin), a trade name for Clonazepam, is an anticonvulsant of the benzodiazepine class of drugs. Klonopin is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d)(5) and a dangerous drug as defined by Code section 4022. Klonopin produces central nervous system depression and should be used with caution with other central nervous system depressant drugs. Like other benzodiazapines, it can produce psychological and physical dependence.

18. "Soma" is the trade name for the substance Carisoprodol and is a dangerous drug as defined by Business and Professions Code section 4022.

19. "Vicodin" is a Schedule II controlled substance pursuant to Health and Safety Code section 11056, subdivision (e)(3) and a dangerous drug as defined by Code section 4022. Vicodin is a trade name for the narcotic substance Hydrocodone, or hydrocodeninone, with the non-narcotic substance acetaminophen.

20. "Ativan" is a brand name of Lorazepam, which is a Schedule IV controlled substance per Health and Safety Code section 11057, subdivision (d)(16), and is a dangerous drug as defined by Code section 4022. Ativan is an anti-anxiety drug primarily used for the treatment of anxiety, tension, and anxiety with depression, insomnia, and acute alcohol withdrawal symptoms.

21. "Ritalin," a trade name for methylphenidate hydrochloride, is a mild central nervous system stimulant. It is a dangerous drug as defined in section 4022 and a schedule II controlled substance as defined in Health and Safety Code section 11055.

COST RECOVERY

22. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

1 FACTUAL BACKGROUND

2 23. Respondent was employed as a mental health nurse at Solano County Health and
3 Social Services Mental Health Division (SCMH) from approximately January 27, 2004, until she
4 voluntarily resigned in or about June 30, 2009. Respondent was assigned as the outpatient
5 coordinator for mental health services. Her duties included coordinating outpatient care for
6 psychiatric patients, scheduling patient follow-up appointments for psychiatry, attending
7 treatment meetings to discuss patient release or discharge, and interacting with the discharge
8 nurses to determine continued patient care. During her employment at SCMH, her direct
9 supervisor and other colleagues observed Respondent exhibit erratic behavior and disclose
10 inappropriate personal information. She failed to appear at team meetings and her whereabouts
11 were often unknown. On or about January 14, 2009, while Respondent was on medical leave, her
12 supervisor Michael Pena requested that she come in for a meeting to discuss performance issues.
13 During the meeting, Respondent acted fidgety, confused, and incoherent, and one of her front
14 teeth fell out. Based upon Respondent's behavior during the meeting, the Clinical Supervisor for
15 Outpatient Clinics, Manuel Jimenez, directed Mr. Pena and another clinician to take Respondent
16 to North Bay Occupational Health Clinic for urinalysis testing and Respondent complied. The
17 results of the drug test were sealed pursuant to a subsequent Skelly Hearing.¹ On or about May
18 28, 2009, Glenda Ligenfelter, Interim Mental Health Director at SCMH, filed an online complaint
19 with the Board alleging that Respondent was terminated from SCMH in or about March 2009,
20 due to testing positive on a drug test. The complaint also alleged that Respondent was attempting
21 to obtain prescriptions illegally by calling local pharmacies and pretending to still be employed
22 by SCMH.

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25 ¹ A "Skelly Hearing" is a hearing which must be provided to an employee prior to the
26 imposition of discipline. Generally, Skelly hearings must be provided in the case of termination,
27 demotion, suspension, reduction in pay and transfer with an accompanying loss in pay. An
28 employee's Skelly rights entitle the employee to due process. Pursuant to State Personnel Board
Rule 52.3 an employee must be served with a Notice of Adverse Action at least five (5) days prior
to the effective date. The "Skelly" Officer must have the authority to modify (or at a minimum
recommend modification) of the adverse action.

1 24. From on or about March 31, 2008, until at least on or about May 21, 2009,
2 Respondent called in several phone orders for prescriptions for her husband Robert Winslow on
3 behalf of a Dr. Pradeep Kumar. These orders were placed with two different to Rite Aid
4 pharmacies, one in Suisun City, California, and the other in Benicia, California. Dr. Kumar never
5 treated Robert Winslow. Dr. Kumar never authorized Respondent to write a prescription for or
6 call in a verbal order for any medications for Robert Winslow. The circumstances are as follows:

7 a. On or about March 31, 2008, Respondent placed an order for and later obtained
8 60 Clonazepam 1 milligram tablets from the Rite Aid Pharmacy in Benicia, California, by
9 misrepresenting that the prescription was for Robert Winslow and was prescribed by Dr. Kumar.

10 b. On or about May 7, 2008, Respondent placed an order for and later obtained 60
11 Clonazepam 1 milligram tablets from the Rite Aid Pharmacy in Benicia, California, by
12 misrepresenting that the prescription was for Robert Winslow and was prescribed by Dr. Kumar.

13 c. On or about June 28, 2008, Respondent placed an order for and later obtained
14 60 Clonazepam 1 milligram tablets from the Rite Aid Pharmacy in Benicia, California, by
15 misrepresenting that the prescription was for Robert Winslow and was prescribed by Dr. Kumar.

16 d. On or about July 16, 2008, Respondent placed an order for and later obtained
17 60 Clonazepam 1 milligram tablets from the Rite Aid Pharmacy in Benicia, California, by
18 misrepresenting that the prescription was for Robert Winslow and was prescribed by Dr. Kumar.

19 e. On or about February 9, 2009, Respondent placed an order for and later
20 obtained 60 Clonazepam 1 milligram tablets from the Rite Aid Pharmacy in Suisun City,
21 California, by misrepresenting that the prescription was for Robert Winslow and was prescribed
22 by Dr. Kumar.

23 f. On or about April 10, 2009, Respondent placed an order for and later obtained
24 30 Clonazepam 2 milligram tablets, 30 Vicodin tablets from the Rite Aid Pharmacy in Suisun
25 City, California by misrepresenting that the prescription was for Robert Winslow and was
26 prescribed by Dr. Kumar.

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1 g. On or about April 20, 2009, Respondent placed an order for and later obtained
2 30 Hydrocodone, APAP 5/500 tablets from the Rite Aid Pharmacy in Suisun City, California, by
3 misrepresenting that the prescription was for Robert Winslow and was prescribed by Dr. Kumar.

4 h. On or about May 11, 2009, Respondent placed an order for and later obtained
5 90 Carisporodol (Soma) 350 milligram tablets from the Rite Aid Pharmacy in Suisun City,
6 California by misrepresenting that the prescription was for Robert Winslow and was prescribed
7 by Dr. Kumar.

8 i. On or about May 15, 2009, Respondent placed an order for and later obtained
9 30 Hydrocodone APAP 5/500 tablets from the Rite Aid Pharmacy in Suisun City, California, by
10 misrepresenting that the prescription was for Robert Winslow and was prescribed by Dr. Kumar.

11 j. On or about May 21, 2009, Respondent placed an order for and attempted to
12 obtain Klonopin, Vicodin, and Soma from the Rite Aid Pharmacy in Suisun City, California, by
13 misrepresenting that the prescription was for Robert Winslow and was prescribed by Dr. Kumar.
14 Respondent claimed that she was Robert Winslow's nurse and that she worked for a Mobile Unit
15 in Solano County.

16 FIRST CAUSE FOR DISCIPLINE

17 (Unprofessional Conduct – Obtaining or Possessing Controlled Substances)
18 (Bus. & Prof. Code §§ 2761, subd. (a), 2762, subd. (a), 4060)

19 25. Respondent's registered nurse license is subject to disciplinary action under Code
20 section 2761, subdivision (a), as defined by Code section 2762, subdivision (a), in that she
21 unlawfully obtained controlled substances in violation of Code section 4060 as described in
22 paragraphs 23 and 24, above. The circumstances are as follows:

23 a. Respondent unlawfully obtained and possessed the following controlled
24 substances in violation of Code section 4060: Klonopin and Vicodin.

25 b. Respondent unlawfully obtained the following controlled substances by fraud,
26 deceit, misrepresentation, subterfuge and/or by the concealment of a material fact, in violation of
27 Health and Safety Code section 11173, subdivision (a): Klonopin and Vicodin.
28

1 c. Respondent unlawfully obtained and possessed the following dangerous drugs
2 by making a false statement in a prescription, order, report, or record, in violation of Health and
3 Safety Code section 11173, subdivision (b): Klonopin, Vicodin, and Soma.

4 d. Respondent unlawfully obtained the following narcotic drugs without the
5 written prescription of a physician, in violation of Health and Safety Code section 11350,
6 subdivision (a)(2): Vicodin.

7 e. Respondent unlawfully obtained the following narcotic drugs by forged,
8 fictitious, or altered prescriptions, in violation of Health and Safety Code section 11368: Vicodin.

9 SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

10 (Bus. & Prof. Code §§ 2761, subd. (a))

11 26. Respondent has subjected her registered nurse license to discipline under Code
12 section 2761, subdivision (a), in that she engaged in unprofessional conduct. The circumstances
13 are set forth in paragraphs 23 and 24 above.

14 THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct – Use of Controlled Substances in a Dangerous Manner)

15 (Bus. & Prof. Code §§ 2761, subd. (a), 2762, subd. (b), 4060)

16 27. Respondent has subjected her registered nurse license to disciplinary action under
17 Code section 2761, subdivision (a), as defined by Code section 2762, subdivision (b), in that she
18 engaged in unprofessional conduct by using controlled substances in a dangerous manner. The
19 circumstances are set forth in paragraphs 23 and 24 above. Additional circumstances are set forth
20 as follows:

21 28. On or about May 25, 2009, Respondent was involved in multiple traffic collisions on
22 eastbound Interstate 80. On or about May 25, 2009, at approximately 8:05 p.m., an officer from
23 the California Highway Patrol (CHP), Officer 1, received a report of a hit-and-run on Interstate 80
24 eastbound, west of State Route 12. Officer 1 responded to the scene of the collision at
25 approximately 8:15 p.m. The victim of the hit and run, Driver 1, whose vehicle had been hit by
26 Respondent, was at the scene and described Respondent and her vehicle, a silver Hyundai Sonata,
27 to the officer. Driver 1 explained that he was travelling in the #1 lane of Interstate 80 at
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1 approximately 65 to 70 miles-per-hour, directly in front of Respondent, when he felt a sudden
2 impact to the rear of his vehicle. After the collision, both Driver 1 and Respondent drove onto the
3 center divide and exited their vehicles. Driver 1 told Respondent that he was going to call CHP to
4 make a report. Respondent returned to her vehicle and fled the scene. A witness at the scene,
5 Witness 1, was the right front passenger in another car driving eastbound on Interstate 80 at the
6 time of the collision. Witness 1 observed Respondent driving erratically and saw the front of
7 Respondent's vehicle collide with Driver 1's vehicle.

8 29. On or about May 25, 2009, at approximately 8:11 p.m., another CHP Officer, Officer
9 2, received a report of a traffic collision on Interstate 80 eastbound at Interstate 505. When
10 Officer 2 arrived at the scene of the collision at approximately 8:20 p.m., Respondent was
11 kneeling behind the vehicle that she had hit, attempting to rub off the damage from the collision.
12 As Respondent attempted to stand up, it was apparent that her sense of balance was impaired
13 because she wobbled and nearly fell on several occasions as she attempted to walk. Respondent
14 had to lean against the patrol car to maintain her balance. Officer 2 noticed that Respondent's
15 speech was slurred. He also observed collision damage to Respondent's vehicle, a silver Hyundai
16 Sonata. The victim of the second collision, Driver 2, was also present at the scene. Respondent
17 told Officer 2 that while she was driving she dropped her directions and reached down to pick
18 them up, causing her to run into the rear of Driver 2's vehicle. Driver 2 stated that she was
19 driving her car in the #4 lane at approximately 55 to 60 miles-per-hour when she was hit from
20 behind by Respondent. A witness at the scene, Witness 2, stated that he was following Driver 2
21 from North Texas. He was on the phone with CHP dispatch when the collision occurred because
22 prior to the collision, he observed that Respondent was unable to stay in one lane and she swerved
23 several times from the #1 lane into the center divide. Prior to the collision, Witness 2 also saw
24 Respondent move from the #1 lane to the #2 lane, then into the #4 lane, accelerate to 75 miles-
25 per-hour, brake hard, and run into the rear of Driver 2's vehicle. Driver 1, the driver involved in
26 the first collision, responded to the scene of the second collision and positively identified
27 Respondent as the driver in the first collision.

1 30. While at the scene of the second collision, Officer 2 had Respondent perform a series
2 of field sobriety tests (FSTs), which she performed poorly. Due to the collision, her signs of
3 impairment, and her poor performance on the FSTs, Officer 2 placed Respondent under arrest for
4 violation of Vehicle Code section 23152, subdivision (a) (driving under the influence); pursuant
5 to Vehicle Code section 40300.5, at approximately 8:55 p.m. Officer 2 transported Respondent to
6 the Solano Area CHP office for drug recognition evaluation. Another officer at the station,
7 Officer 3, performed the drug recognition evaluation. Based upon his evaluation, Officer 3
8 determined that Respondent was under the influence of central nervous system depressants and
9 narcotic analgesics. Respondent provided a urine sample at approximately 10:10 p.m. After
10 waiving her Miranda rights, Respondent told Officer 3 that she suffers from severe depression
11 and that she takes a battery of medication every day, including Vicodin, Zimbatam, Clonopin, and
12 Ritalin. With regard to the first collision, Respondent stated that she was driving behind Driver 1
13 when Driver 1 braked suddenly and she was unable to stop her vehicle from colliding into Driver
14 1's vehicle. When Officer 3 asked Respondent whether she felt that she could safely drive at the
15 time of her arrest, she stated that she did not think that she should have been driving, but that she
16 had to see her daughter because she had not seen her in awhile. Respondent submitted to a
17 urinalysis test, which showed positive results for the following drugs: Opiates, Benzodiazepines,
18 Hydrocodone, Hydromorphone, Dihydrocodeine, and 7-Amino Clonazepam.

19 FOURTH CAUSE FOR DISCIPLINE

20 (Unprofessional Conduct – Conviction)

21 (Bus. & Prof. Code §§ 490, 2761, subd. (f), 2762 subd. (c); Cal. Code Regs, tit. 16, § 1444)

22 31. Complainant realleges the allegations contained in paragraphs 28 through 31 above,
23 and incorporates them by reference as if fully set forth.

24 32. Respondent has subjected her registered nurse license to disciplinary action under
25 Code sections 490, 2761, subdivision (f), and 2762, subdivision (c), as defined by California
26 Code of Regulations Title 16, section 1444, in that she was convicted of a crime involving the
27 consumption of drugs, which is substantially related to the qualifications, functions, and duties of
28 a registered nurse. Specifically, on or about January 27, 2010, in a criminal matter entitled The

1 *People of the State of California v. Kerstin Kohn, a.k.a. Kerstin Biagini*, in the Superior Court of
2 Solano County, Case Number FCR268166, which was consolidated with a previously filed case,
3 Case Number FCR266812, Respondent was convicted by plea of no contest to one count of
4 violating Vehicle Code section 23152, subdivision (a) (driving under the influence), a
5 misdemeanor. Respondent was sentenced to three years of probation and ordered to serve two
6 days in jail. Respondent was also ordered to: (1) pay various fees and fines; (2) report all arrests,
7 citations, or violations of law to the court within 48 hours; (3) submit to a search and seizure at
8 the request of a law enforcement officer; (4) drive only with a valid license and at least minimum
9 liability insurance; (5) not drive with any measureable amount of alcohol in her system;
10 (6) submit to alcohol testing upon request by a peace officer or program representative; and
11 (7) enroll in and complete the 90 day First Offender DUI Program.

12 PRAYER

13 WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this
14 Accusation, and that following the hearing, the Board of Registered Nursing issue a decision:

- 15 1. Revoking or suspending Registered Nurse License Number 461959, issued to Kerstin
16 Kohn, also known as Kerstin Negoesco, also known as Kerstin Biagini;
 - 17 2. Ordering Kerstin Kohn, also known as Kerstin Negoesco, also known as Kerstin
18 Biagini to pay the Board of Registered Nursing the reasonable costs of the investigation and
19 enforcement of this case, pursuant to Business and Professions Code section 125.3;
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3. Taking such other and further action as deemed necessary and proper.

DATED: 3/24/11

Louise R. Bailey
LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant.

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